



STATE OF ARKANSAS
**Department of Finance
and Administration**

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September 29, 2016

George Davison
6300 Brentwood Road
Cammack Village, Arkansas 72207

RE: Advisory Opinion No. 2016-13

Dear Mr. Davison,

This letter is in response to your request for an advisory opinion, in accordance with Ark. Code Ann. § 19-11-715(b), concerning a possible conflict of interest between yourself and the University of Arkansas at Pine Bluff (UAPB) regarding the use of your services at football scrimmages held at UAPB. I appreciate your inquiry. Public service is a position of trust. Thus, it is paramount that public employees strive to avoid the mere appearance of a conflict of interest under Ark. Code Ann. § 19-11-705 or a violation of the public services code of ethics under Ark. Code Ann. § 21-8-304.

This opinion is based upon the following facts that have been presented to me. It should be noted that if one or more of these facts are later shown to be incorrect, that could result in a revised opinion.

1. You are currently employed by the Arkansas State Highway and Transportation Department.
2. Your income from employment at the Arkansas State Highway and Transportation Department exceeds \$15,000.
3. You are a football official currently working in the Southwestern Athletic Conference (SWAC).
4. You were hired by the Coordinator of Football Officials for the SWAC.
5. The Coordinator of Football Officials for the SWAC is in charge of hiring, firing, and assigning football officials to work the SWAC football games and scrimmages.
6. You do not contact UAPB to set games or scrimmages, as that is done by the Coordinator of Football Officials for the SWAC.
7. By conference agreement between the SWAC and UAPB, football officials are paid \$50 per scrimmage.
8. You have no part of negotiating what schools pay or don't pay to have officials at football scrimmages.
9. You pay no part in assigning yourself to any games or scrimmages.
10. You have not contract or agreement with UAPB or any other university, but work for the SWAC.

Ark. Code Ann. § 19-11-705, prohibits state agencies, including state-supported institutions of higher education, from contracting with a business in which an employee or an employee's immediate family member has a financial interest if the employee participates, either directly or indirectly, in the procurement of such contracts. "Employee" is defined broadly to include volunteer members of state boards and commissions, Ark. Code Ann § 19-11-701(8). "Direct or indirect participation" is defined under Ark. Code Ann. § 19-11-705(a)(2), and includes without limitation, "involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity." The position of employment and an employee's participation in the procurement process, both directly and indirectly, are examined on a case-by-case basis.

Under the facts as stated above, I find no conflict of interest or breach of ethical standards, owing to your assertion that you have no contract or agreement with UAPB or any other university, but rather with the SWAC. You have not involved directly or indirectly with the contract or agreement between UAPB and the SWAC, including setting fees for officials or assigning officials to games.

This advisory opinion is issued in accordance with Ark. Code Ann § 19-11-715(b). Compliance with the above course of conduct is deemed to constitute compliance with Arkansas law and Executive Order 98-04.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry W. Walther". The signature is fluid and cursive, with the first name "Larry" and last name "Walther" clearly distinguishable.

Larry W. Walther
Director

cc: Edward Armstrong, Administrator
DFA Office of State Procurement